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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,831	09/12/2003	Wade Littleton	21694.00	1531

37833 7590 08/30/2006

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EXAMINER

HAND, MELANIE JO

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/666,831	LITTLETON ET AL.	
	Examiner	Art Unit	
	Melanie J. Hand	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

Applicant's arguments, see Remarks, filed August 7, 2006, with respect to the rejection(s) of claim(s) 1 and 4-9 under 35 U.S.C. 102 and claims 3 and 10-17 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found prior art reference.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 4 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by McIntyre (U.S. Patent No. 4,646,510).

With respect to **Claim 1**: McIntyre teaches a pouch comprising a top layer of porous material 1 and a bottom layer of porous material 1', said layers 1 and 1' being joined together by sealed edges extending around the outer perimeters of said top and bottom layers of porous material. The top and bottom layers of porous material with their sealed edges form a cavity therebetween. A powder is contained within said cavity, and said powder is kept between the

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top and bottom layers by said sealed edges, and is capable of being dispersed in a non-hazardous amount through the top and bottom layers during the production of said pouch, and thus also during use. The limitation pertaining to placement of said pouch in a male user's groin area is considered intended use language that is being considered but not given patentable weight.

With respect to **Claim 4**: The layers 1,1' are comprised of porous tissue material, which is understood by Examiner to mean a woven fabric.

With respect to **Claims 6-8**: McIntyre teaches that the powder is a superabsorbent and therefore is a moisture-absorbing powder, and further, the powder is capable of reducing chafing and controlling odor, as chafing and odor are caused primarily by excess moisture trapped against the skin of a user.

With respect to **Claim 9**: Chafe-reducing is defined as reducing irritation to the skin caused by friction and medicated is defined as containing something that serves as a remedy or is corrective, therefore, the powder contained in the pouch taught by McIntyre is sufficient for preventing irritation or scratching of the skin, and is thus considered herein to be medicated.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre ('510).

With respect to **Claim 5**: McIntyre teaches a woven cotton porous material, and therefore does not explicitly teach gauze. McIntyre teaches that the material is tissue, however gauze is also comprised of woven cotton material, therefore it would be obvious to one of ordinary skill in the art to substitute gauze for tissue as the porous material taught by McIntyre with a reasonable expectation of success.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre ('510) in view of Raducu ('010).

With respect to **Claim 3**: The layers 1,1' are comprised of porous tissue, which is understood by Examiner to mean a woven cotton material, and therefore McIntyre does not teach linen. Raducu teaches a granulated mixture (i.e. of oats) packed in small linen bags or pouches used for body care, as stated in the abstract of the published document. It would have been obvious to one skilled in the art to provide Seneca's pouch with a linen material, as taught by Raducu to provide a porous and soft but effective topical solution (i.e. powder) delivery applicator.

Claims 10 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre ('510) in view of Moretz et al ('467).

With respect to **claim 10**: Please see the rejection of claim 1 in addition to the following: McIntyre does not teach a pair of male underwear having a fly pocket area. Moretz teaches a male support undergarment having a moisture-management pouch located in the fly area. Moretz teaches that this moisture control prevents accumulation of moisture to prevent chafing,

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and prevents odor, therefore it would be obvious to one of ordinary skill in the art to combine the pouch taught by McIntyre with the undergarment taught by Moretz with a reasonable expectation of success to prevent moisture-related irritation or discomfort and odor.

With respect to **Claim 12**: The layers 1,1' are comprised of porous tissue material, which is understood by Examiner to mean a woven fabric.

With respect to **Claim 13**: McIntyre teaches a woven cotton porous material, and therefore does not explicitly teach gauze. McIntyre teaches that the porous material is tissue, however gauze is also comprised of woven cotton material, therefore it would be obvious to one of ordinary skill in the art to substitute gauze for tissue as the porous material taught by McIntyre with a reasonable expectation of success.

With respect to **Claims 14-16**: McIntyre teaches that the powder is a superabsorbent and therefore is a moisture-absorbing powder, and further, the powder is capable of reducing chafing and controlling odor, as chafing and odor are caused primarily by excess moisture trapped against the skin of a user.

With respect to **Claim 17**: Chafe-reducing is defined by Merriam-Webster (definition of chafe or chafing) as reducing irritation to the skin caused by friction and medicated is defined by Merriam-Webster as containing something that serves as a remedy or is corrective, therefore, the powder contained in the pouch taught by McIntyre is sufficient for preventing irritation or scratching of the skin, and is thus considered herein to be medicated.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over McIntyre ('510) in view of Moretz et al ('467) as applied to claims 10 and 12-17 above, and further in view of Raducu ('010).

With respect to **Claim 11**: Please see the rejection of claim 1 in addition to the following: McIntyre teaches a woven (claim 12) cotton porous material. Neither McIntyre nor Moretz teaches a porous material comprised of linen. Raducu teaches a granulated mixture (i.e. of oats) packed in small linen bags or pouches used for body care, as stated in the abstract of the published document. It would have been obvious to one skilled in the art to provide the pouch taught by McIntyre with a linen material, as taught by Raducu to provide a porous and soft but effective topical solution (i.e. powder) delivery applicator.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

